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GENERAL ASSEMBLY
Forty-ninth session
Agenda item 39
THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Fiftieth year

Letter dated 10 February 1995 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a joint statement issued after the political consultations held at Ankara on 9 February 1995 between the Deputy Prime Minister and Minister for Foreign Affairs of Turkey, Mr. Murat Karayalçin, and the Minister for Foreign Affairs of Bosnia and Herzegovina, Mr. Irfan Ljubijankic (see annex).

I would be grateful if you could have the present letter and its annex circulated as an official document of the forty-ninth session of the General Assembly, under agenda item 39, and of the Security Council.

(Signed) İnal BATU
Ambassador
Permanent Representative

* Reissued for technical reasons.

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ANNEX

Joint statement issued on 9 February 1995 by the Deputy Prime Minister and Minister for Foreign Affairs of Turkey and the Minister for Foreign Affairs of Bosnia and Herzegovina

The Deputy Prime Minister and Minister for Foreign Affairs of Turkey and the Minister for Foreign Affairs of the Republic of Bosnia and Herzegovina held political consultations at Ankara on 9 February 1995.

The two Ministers reviewed the situation in Bosnia and Herzegovina and exchanged views on the latest developments in the area. They concurred on the necessity to expedite efforts to reach a peaceful settlement of the conflict in view of the available time emanating from the agreement for the cessation of hostilities in Bosnia as well as the decision for the withdrawal of the United Nations Protection Force (UNPROFOR) from the occupied territories of Croatia.

The two Ministers reiterated their full conviction that the only way to achieve a lasting solution in Bosnia and Herzegovina, as well as other areas of conflict in the former Yugoslavia, is to ensure the sovereignty and territorial integrity of all the States there within their internationally recognized borders. They further reaffirmed their belief that the Federation constitutes a viable model for the maintenance of a multi-ethnic, multi-cultural and multi-religious society encompassing all the peoples of Bosnia.

They emphasized the significance and substantial contributions of the trilateral consultations to the maintenance and functioning of the Federation as well as the cooperation and harmony it fosters in the region. They expressed their willingness to start the preparations to hold the fifth of the trilateral meetings at Sarajevo.

Recalling the Casablanca declaration on Bosnia and Herzegovina of the seventh summit of the Organization of the Islamic Conference (OIC), the two Ministers expressed the urgency for its full implementation and, to that end, agreed to mobilize their efforts.

The Bosnian Minister expressed appreciation, support and trust for Turkey's active participation in the ongoing peace process. The Turkish Minister reiterated his country's long-standing and principled position that Bosnia is a test case for the new order in the Balkans and beyond, and that, as a Balkan country, Turkey is determined to continue to give its full support for respect and implementation of international principles in the region.

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LETTER DATED 13 FEBRUARY 1995 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith a list giving particulars of the continued violations of the cease-fire resolution and the Tehran agreement concerning the area of separation between Iraq and Iran that were committed by the Iranian side between 25 December 1994 and 24 January 1995.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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Annex

Iranian violations of the cease-fire and the 1991 Tehran agreement, 25 December 1994-24 January 1995

25 December 1994

The Iraqi pilot Ni'mah Muhammad al-Sa'dun had been instructed to take the foreign ship Al-Shahidi, No. 586, out to sea from the port of Abu Fulus. At 1130 hours he left the jetty. When they arrived at the port of Kabdah (Khusrawabad) at 1415 hours, they were intercepted by an Iranian military craft with three armed men on board. The latter boarded the ship and ordered the pilot at gunpoint to dock at jetty No. 2.

At 1700 hours on 25 December 1994 the vessel docked. They took full control of it, searched it and took the crew into custody.

26 December 1994

On the morning of 26 December 1994 the pilot and the ship's captain were taken to a military office at the port of Abadan. They were roughly interrogated and then placed in detention.

28 December 1994

The pilot and the ship's captain were removed from detention and taken to a military office (Abadan and Khorramshahr Intelligence). At 1400 hours they were returned to detention, and they remained there until the afternoon of 3 January 1995. At 1505 hours on 3 January 1995 a soldier came and removed them from detention and took them to the military office. They then took them by car to the port of Kabdah, where the ship was being held. When they arrived, the pilot, escorted by an armed soldier, was ordered to take the ship to the inspection point south of Faw. They arrived there on the morning of 4 January 1995. On 5 January 1995 they told the pilot to leave the ship because it had been impounded.

11 January 1995

At 0500 hours the Iranian side advanced a group of soldiers equipped with Iranian explosive charges. It blew up part of the Dasm barrage at coordinates 4961.

15 January 1995

At 1000 hours the Iranian side advanced groups that clashed with the Iraqi units stationed on the Rabt barrage. At the same time, they blew up a part of the barrage at coordinates 5561.

15 January 1995

At 0800 hours the Iranian side advanced another group that clashed with the units stationed on the Dasm barrage at coordinates 4964.

21 January 1995

At 1500 hours the Iranian side detained the vessel Al-Fayha' and the Iraqi tug 7 Nisan at the inspection point.

24 January 1994

At 1950 hours the Iranian side fired two 82-millimetre mortar shells at coordinates 919788 (Shalamjah).

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LETTER DATED 13 FEBRUARY 1995 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to inform you that the violations of Iraqi national airspace committed by United States aircraft in order to carry out reconnaissance, cause provocation and break the sound barrier continued over the period 1 to 10 February 1995.

1 February 1995

(a) Northern region: 27 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Irbil, Dohuk, Aqrah, Amadiyah, Ayn Zalah and Zakho.

(b) Southern region: 48 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Samawah, Salman, Basra, Jalibah and Artawi.

At 0936 and 1022 hours on 1 February 1995, a hostile two-aircraft formation broke the sound barrier at low altitude over Nasiriyah and Basra.

2 February 1995

(a) Northern region: 12 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Irbil, Dohuk, Aqrah, Zakho and Amadiyah.

(b) Southern region: 78 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Samawah, Nasiriyah, Jalibah, Busayyah, Shinafiyah and Artawi.

At 1135 and 1450 hours on 2 February 1995, two United States TR-1 reconnaissance aircraft flying at speeds of 600 kilometres per hour and at altitudes of 20,000 metres violated Iraqi airspace in areas in the south of the country and left in the direction of Kuwait at 1205 and 1527 hours.

3 February 1995

(a) Northern region: 17 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Irbil, Dohuk, Tall Afar, Zakho and Amadiyah.

(b) Southern region: 63 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Basra, Salman, Amarah, Jalibah, Artawi and Busayyah.

4 February 1995

(a) Northern region: 14 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Irbil, Amadiyah, Dohuk, Tall Afar, Zakho, Aqrah and Ayn Zalah.

(b) Southern region: 23 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Samawah, Salman, Chabaish, Busayyah, Artawi and Qal'at Sukkar.

At 1300 hours on 4 February 1995, a United States TR-1 reconnaissance aircraft flying at speeds of 600 kilometres per hour and at medium altitudes violated Iraqi airspace in areas in the south of the country and left in the direction of Kuwait at 1410 hours.

At 1745 hours on 4 February 1995, a hostile formation broke the sound barrier at low altitude over Nasiriyah in Dhi Qar Governorate.

5 February 1995

Southern region: 43 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Amarah, Samawah, Ushbayjah, Qurnah and Busayyah.

At 1222 hours on 5 February 1995, United States TR-1 reconnaissance aircraft flying at speeds of 600 kilometres per hour and at altitudes of 20,000 metres violated Iraqi airspace in areas in the south of the country and left in the direction of Kuwait at 1319 hours.

At 1026 hours, on 5 February 1995, a hostile two-aircraft formation broke the sound barrier over Nasiriyah in Dhi Qar Governorate.

6 February 1995

(a) Northern region: 17 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Irbil, Dohuk, Tall Afar, Aqrah and Ayn Zalah.

(b) Southern region: 65 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Samawah, Salman, Shinafiyah, Jalibah and Busayyah.

At 1100 and 1400 hours on 6 February 1995, two United States TR-1 reconnaissance aircraft flying at speeds of 600 kilometres per hour and at altitudes of 20,000 metres violated Iraqi airspace over areas in the south of the country and left in the direction of Kuwait at 1305 and 1610 hours.

7 February 1995

Southern region: 87 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Basra, Amarah, Qurnah, Artawi, Samawah, Shinafiyah, Busayyah and Jalibah.

At 1250 hours on 7 February 1995, a United States TR-1 reconnaissance aircraft flying at speeds of 600 kilometres per hour and at altitudes of 20,000 metres violated Iraqi airspace in areas in the south of the country and left in the direction of Kuwait at 1345 hours.

8 February 1995

(a) Northern region: 14 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Dohuk, Tall Afar, Aqrah, Zakho and Amadiyah.

(b) Southern region: 33 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Basra, Samawah, Qal'at Salih, Jalibah, Busayyah and Artawi.

At 1120 hours on 8 February 1995, a United States TR-1 reconnaissance aircraft flying at speeds of 600 kilometres per hour and at altitudes of 20,000 metres violated Iraqi airspace in areas in the south of the country and left in the direction of Kuwait at 1235 hours.

9 February 1995

(a) Northern region: 19 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Irbil, Dohuk, Tall Afar, Zakho and Amadiyah.

(b) Southern region: 70 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Samawah, Amarah, Khidr, Artawi, Qurnah and Jalibah.

10 February 1995

(a) Northern region: 19 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Mosul, Amadiyah, Irbil, Aqrah, Dohuk, Tall Afar and Zakho.

(b) Southern region: 48 sorties, flown at speeds of 600 to 900 kilometres per hour and at medium altitudes, centred over Nasiriyah, Samawah, Salman, Chabaish, Busayyah, Jalibah and Artawi.

At 1250 and 1530 hours on 10 February 1995, two United States TR-1 reconnaissance aircraft flying at speeds of 600 kilometres per hour and at altitudes of 20,000 metres violated Iraqi airspace in areas in the south of the country and left in the direction of Kuwait at 1355 and 1615 hours.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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REPORT OF THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 5 OF SECURITY COUNCIL RESOLUTION 955 (1994)

I. INTRODUCTION

1. Resolution 955 (1994) of 8 November 1994, by which the Security Council established an international tribunal for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandese citizens responsible for genocide and other such violations committed in the territory of neighbouring States, represented the culmination of a series of resolutions in which the Council had condemned the systematic and widespread violations of international humanitarian law in Rwanda and, in particular, the mass killing of tens of thousands of civilians with impunity.

2. In resolution 918 (1994) of 17 May 1994, the Secretary-General was requested to present a report on the investigation of serious violations of international humanitarian law committed in Rwanda. In my report to the Council of 31 May 1994 (S/1994/640), I noted that massacres and killings had continued in a systematic manner throughout Rwanda and that only a proper investigation could establish the facts in order to determine responsibility.

3. By resolution 935 (1994) of 1 July 1994, the Secretary-General was requested to establish an impartial commission of experts. In its interim report (S/1994/1125), the Commission submitted its preliminary conclusions on serious breaches of international humanitarian law and acts of genocide committed in Rwanda, and recommended that the individuals responsible for those acts be brought to justice before an independent and impartial international criminal tribunal. In its final report (S/1994/1405), the Commission concluded that there existed overwhelming evidence to prove that acts of genocide against the Tutsi ethnic group had been committed by Hutu elements in a concerted, planned, systematic and methodical way, in violation of article II of the Convention on the Prevention and Punishment of the Crime of Genocide, 1948 1/ (hereinafter "the Genocide Convention"); that crimes against humanity and serious violations of international humanitarian law were committed by individuals on both sides of the conflict, but there was no evidence to suggest that acts committed by Tutsi elements were perpetrated with an intent to destroy the Hutu ethnic group as such, within the meaning of the Genocide Convention.

4. The present report is submitted pursuant to paragraph 5 of resolution 955 (1994), by which the Security Council requested the Secretary-General to implement the resolution urgently and to make practical arrangements for the effective functioning of the Tribunal, including recommendations to the Council as to possible locations for the seat of the Tribunal, and to report periodically to the Council.

5. While the Council has been periodically informed of the implementation of resolution 955 (1994), through letters from the Secretary-General, oral briefings and recently through the progress report on the United Nations Assistance Mission for Rwanda (UNAMIR) (S/1995/107, paras. 19-22), this is the first time that the Secretary-General is submitting a formal report on the Tribunal. Accordingly, I have decided that it would be useful to provide the Council with a comprehensive report. The first section analyses the legal basis for the establishment of the International Tribunal for Rwanda (hereinafter also referred to as "the Rwanda Tribunal") and its legal status. The second contains a succinct review of the main provisions of the statute of the Rwanda Tribunal where they differ from the provisions of the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia (hereinafter "the Yugoslav Tribunal") (see S/25704). The third section of the report outlines the two-stage approach to the establishment of the Rwanda Tribunal and the practical arrangements made thus far for its functioning. Finally, in the fourth section of the report, the Secretary-General examines the various options for the location of the seat of the Tribunal in the light of the criteria set out in paragraph 6 of resolution 955 (1994) and makes his recommendation for the location of the seat of the Tribunal.

II. LEGAL BASIS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR RWANDA

6. Having determined on two previous occasions that the situation in Rwanda constituted a threat to peace and security in the region, 2/ the Council, in its resolution 955 (1994), determined that the situation in Rwanda continued to constitute a threat to international peace and security and, accordingly, decided to establish the International Tribunal for Rwanda under Chapter VII of the Charter of the United Nations. The establishment of the International Tribunal under Chapter VII, notwithstanding the request received from the Government of Rwanda, 3/ was necessary to ensure not only the cooperation of Rwanda throughout the life-span of the Tribunal, but the cooperation of all States in whose territory persons alleged to have committed serious violations of international humanitarian law and acts of genocide in Rwanda might be situated. A Tribunal based on a Chapter VII resolution was also necessary to ensure a speedy and expeditious method of establishing the Tribunal.

7. Unlike the establishment of the Yugoslav Tribunal, which was done in a two-stage process of two Security Council resolutions (resolutions 808 (1993) and 827 (1993)), the Security Council decided that, in drawing upon the experience

gained in the Yugoslav Tribunal, a one-step process and a single resolution would suffice to establish the International Tribunal for Rwanda.

8. The International Tribunal for Rwanda is a subsidiary organ of the Security Council within the meaning of Article 29 of the Charter. As such, it is dependent in administrative and financial matters on various United Nations organs; as a judicial body, however, it is independent of any one particular State or group of States, including its parent body, the Security Council.

9. The establishment of the Rwanda Tribunal at a time when the Yugoslav Tribunal was already in existence, dictated a similar legal approach to the establishment of the Tribunal. It also mandated that certain organizational and institutional links be established between the two Tribunals to ensure a unity of legal approach, as well as economy and efficiency of resources. The statute of the Rwanda Tribunal, which was an adaptation of the statute of the Yugoslav Tribunal to the circumstances of Rwanda, was drafted by the original sponsors of Security Council resolution 955 (1994) and discussed among members of the Council. Rwanda, as a member of the Security Council at the time that resolution 955 (1994) was adopted, thus participated fully in the deliberations on the statute and the negotiations leading to the adoption of the resolution.

III. MAIN PROVISIONS OF THE STATUTE OF THE INTERNATIONAL TRIBUNAL FOR RWANDA

A. Competence of the International Tribunal

10. The competence of the International Tribunal for Rwanda is circumscribed in time, place and subject-matter jurisdiction. Article 1 of the statute provides that the International Tribunal shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandese citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994. The crimes in respect of which the Tribunal is competent are set out in articles 2 to 4 of the statute.

1. Subject-matter jurisdiction

11. Given the nature of the conflict as non-international in character, the Council has incorporated within the subject-matter jurisdiction of the Tribunal violations of international humanitarian law which may either be committed in both international and internal armed conflicts, such as the crime of genocide 4/ and crimes against humanity, 5/ or may be committed only in internal armed conflict, such as violations of article 3 common to the four Geneva Conventions, 6/ as more fully elaborated in article 4 of Additional Protocol II. 7/

12. In that latter respect, the Security Council has elected to take a more expansive approach to the choice of the applicable law than the one underlying the statute of the Yugoslav Tribunal, and included within the subject-matter jurisdiction of the Rwanda Tribunal international instruments regardless of

whether they were considered part of customary international law or whether they have customarily entailed the individual criminal responsibility of the perpetrator of the crime. Article 4 of the statute, accordingly, includes violations of Additional Protocol II, which, as a whole, has not yet been universally recognized as part of customary international law, and for the first time criminalizes common article 3 of the four Geneva Conventions. 8/

2. Territorial and temporal jurisdiction

13. The territorial jurisdiction of the International Tribunal extends beyond the territory of Rwanda to that of neighbouring States, in respect of serious violations of international humanitarian law committed by Rwandese citizens. In extending the territorial jurisdiction of the Tribunal beyond the territorial bounds of Rwanda, the Council envisaged mainly the refugee camps in Zaire and other neighbouring countries in which serious violations of international humanitarian law are alleged to have been committed in connection with the conflict in Rwanda.

14. The temporal jurisdiction of the Tribunal is limited to one year, beginning on 1 January 1994 and ending on 31 December 1994. Although the crash of the aircraft carrying the Presidents of Rwanda and Burundi on 6 April 1994 is considered to be the event that triggered the civil war and the acts of genocide that followed, the Council decided that the temporal jurisdiction of the Tribunal would commence on 1 January 1994, in order to capture the planning stage of the crimes.

B. Organization and structure of the International Tribunal

15. The International Tribunal for Rwanda consists of three organs:

(a) The chambers, comprising two trial chambers and an appeals chamber; each Trial Chamber is composed of three judges and the Appeals Chamber is composed of five;

(b) A Prosecutor; and

(c) A Registry.

16. Under article 12, paragraph 2, of the statute, the members of the Appeals Chamber of the International Tribunal for the Former Yugoslavia shall also serve as the members of the Appeals Chamber of the International Tribunal for Rwanda. In providing for a common Appeals Chamber for the two Tribunals, the Council was aware of the fact that, if no restrictions are put on the nationalities of nominees for judges, there could be a situation where more than one judge of the Rwanda Tribunal will have the same nationality. In order to prevent such an eventuality, article 12, paragraph 3 (b), of the Rwanda statute provides in its relevant part that:

"... each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge of the Appeals Chamber".

17. Article 15, paragraph 3 of the Statute of the Rwanda Tribunal provides that the Prosecutor of the International Tribunal for the Former Yugoslavia shall also serve as the Prosecutor of the International Tribunal for Rwanda, with such additional staff, including an additional Deputy Prosecutor, to assist with prosecutions before the International Tribunal for Rwanda. The statute thus envisages commonality not only in the person of the Prosecutor, but also in the staff of the Prosecutor's Office.

C. Other statutory provisions

18. Article 14 of the statute of the Rwanda Tribunal provides that the judges of the International Tribunal shall adopt the rules of procedure and evidence for the conduct of the pretrial phase of the proceedings, trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters of the International Tribunal for the Former Yugoslavia, with such changes as they deem necessary. It was thus the intention of the Council that, although the rules of procedure and evidence of the Yugoslav Tribunal should not be made expressly applicable to the Rwanda Tribunal, they should nevertheless serve as a model from which deviations will be made when the particular circumstances of Rwanda so warrant.

19. Imprisonment shall, according to article 26 of the statute, be served in Rwanda, or in any of the States on a list of States that have indicated to the Security Council their willingness to accept convicted persons. Unlike the former Yugoslavia, Rwanda is not excluded from the list of States where prison sentences pronounced by the International Tribunal for Rwanda may be served.

20. Article 30 of the statute provides that the expenses of the Tribunal shall be the expenses of the Organization in accordance with Article 17 of the Charter. In clearly distinguishing between the competence of the Security Council to establish the International Tribunal and the budgetary authority of the General Assembly to decide on its financing, the Security Council did not pronounce itself on the mode of financing, i.e., regular budget or a special account.

III. PRACTICAL IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 955 (1994)

21. The urgent need to start up the operation of the International Tribunal for Rwanda immediately necessitated a phased approach to the establishment of the Tribunal in accordance with the chronological order of the legal process, from the stage of the investigation and the preparation of indictments to the conduct of trial proceedings. A phased approach also facilitated more accurate estimates of the full financial requirements of the Tribunal over time and as information became gradually available.

22. I, therefore, approved a plan for the establishment of the Tribunal in two phases. The first phase envisaged the establishment of an investigative/prosecutorial unit, the appointment of the Deputy Prosecutor and a core unit of investigators, prosecutors and interpreters, the retention of office premises for the Investigative/prosecutorial Unit, the establishment of an Administrative unit and a secretariat, and the preparation of a request for initial funding. In the second phase, judges will be elected, practical arrangements for the establishment of the seat will be put in place, the staffing will be completed and the Tribunal, as a whole, will be fully operational.

A. First phase of the operation of the International Tribunal

23. The first phase of the operation of the International Tribunal for Rwanda began with the establishment of the Investigative/prosecutorial Unit in Kigali. The main functions of the Unit are to establish the Prosecutor's Office and recruit staff, gather documents and information from Governments, intergovernmental and non-governmental organizations, transfer all information collected from the Commission of Experts established pursuant to Security Council resolution 935 (1994) and the Special Investigative Unit established by the High Commissioner for Human Rights, develop the investigative strategy and field operational procedures and initiate the process of investigations and the preparation of indictments.

24. With a view to utilizing, to the extent possible, existing human and financial resources and drawing upon the experience already gained by the Prosecutor and the High Commissioner for Human Rights in the investigations of serious violations of international humanitarian law, it was decided that the core Investigative Unit would consist of investigators of the Prosecutor's Office of the International Tribunal for the Former Yugoslavia and of the Special Investigative Unit established by the High Commissioner for Human Rights.

25. In accordance with article 15, paragraph 3, of the statute of the Rwanda Tribunal, I appointed Mr. Honoré Rakotomanana (Madagascar) as the Deputy Prosecutor. Mr. Rakotomanana has already initiated the operation of the Unit in Kigali and is engaged in staffing his Office.

26. Temporary office space for the initial phase of the operation of the Investigative/Prosecutorial Unit has been identified in the UNICEF Building in Kigali, where the core investigative Unit is currently located. Office premises in the UNAMIR compound have also been identified as a possible permanent location for the Unit.

27. Security for the Investigative/Prosecutorial Unit, its premises and investigators while on mission, will be provided by UNAMIR in accordance with Security Council resolution 965 (1994).

28. A small Administrative Unit has been established, initially within the Office of Legal Affairs, to support the start-up operations of the Prosecutor's Office in Rwanda. The Administrative Unit, which forms the core registry, is

presently handling all administrative, financial and personnel matters pertaining to the commencement of the operation of the Tribunal.

29. A trust fund to assist in the activities of the International Tribunal for Rwanda was established by the Secretary-General pursuant to Security Council resolution 955 (1994), and a letter inviting States, intergovernmental and non-governmental organizations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel, was sent out on 9 January 1995. Contributions to the Trust Fund have already been received from several States, including a pledge to donate equipment in the equivalent amount of $1 million.

30. Pending the preparation of a full budgetary submission to the General Assembly of the estimated financial requirements of the International Tribunal for Rwanda for the biennium 1994-1995, a request has been submitted to the Advisory Committee on Administrative and Budgetary Questions (ACABQ) for the initial funding of the first phase of the operation, i.e., 1 January-31 March 1995. The estimated requirements, based on the anticipated activities to be carried out during that period are in the amount of $3,951,200. They include recruitment of the core investigative and administrative staff, retention of office premises, procurement and establishment of computer and communications systems, administrative costs, costs of transfer of materials between Rwanda, Geneva and The Hague in connection with the Commission of Experts and travel costs on official business between these locations and within Rwanda.

31. Pending consideration of the request by ACABQ, resources have been made available from the Trust Fund to permit initial recruitment and travel of staff from the Yugoslav Tribunal to Rwanda. In addition, the Secretary-General has authorized expenditures up to a maximum of $191,600 for the period 15 January to 14 February 1995.

B. Second phase of the operation of the International Tribunal

32. Once the Security Council has made a determination as to the seat of the Tribunal, the process of electing judges will commence. With a common Appeals Chamber composed of five judges already in place, only six trial judges will have to be elected. Since the judges have to adopt rules of procedure and evidence, it is essential that they are elected as soon as possible. At the same time it is important that the judges take office shortly before the commencement of trial proceedings to avoid the financial implications entailed in their taking office too early. I therefore envisage a special session of the judges to be convened for the sole purpose of adopting the rules of procedure and evidence.

33. Upon the determination of the seat, negotiations will be undertaken by the Office of Legal Affairs with the host country to conclude a headquarters agreement and a lease agreement for the premises of the Tribunal.

34. During the second stage of the operation of the Tribunal, the process of the staffing of the Prosecutor's Office and the Registry will be completed and the Tribunal, as a whole, will be fully operational.

IV. LOCATION OF THE SEAT OF THE INTERNATIONAL TRIBUNAL FOR RWANDA

A. Guidelines for the determination of the seat

35. By paragraph 6 of its resolution 955 (1994), the Security Council decided that the seat of the International Tribunal would be determined by the Council, having regard to considerations of justice and fairness as well as administrative efficiency, including access to witnesses, and economy and subject to the conclusion of appropriate arrangements between the United Nations and the State of the seat acceptable to the Council, having regard to the fact that the International Tribunal may meet away from its seat when it considers it necessary for the efficient exercise of its functions. The Council furthermore decided that an office will be established and proceedings will be conducted in Rwanda, where feasible and appropriate, subject to the conclusion of similar appropriate arrangements.

36. In examining the question of the seat for the purpose of paragraph 6 of Security Council resolution 955 (1994), a flexible approach was adopted. Although normally, the seat of a tribunal would indicate the place where all its organs are located, in the present case the "seat" of the International Tribunal for Rwanda is interpreted to mean the place where trial proceedings are held and trial chambers are located. With a common Appeals Chamber and a common Prosecutor already located in The Hague and the Investigative/Prosecutorial Unit already established in Kigali, the operations of the Rwanda Tribunal, ranging from investigation, preparation of indictments and trial proceedings, both in the Trial Chambers and in the Appeals Chamber, will most probably be carried out in three different locations. It may be noted, however, that, although the various organs of the International Tribunal, wherever located, form part of the Tribunal, a determination of the seat is required by paragraph 6 of resolution 955 (1994) only in respect of the location of trial proceedings.

37. In examining the possible locations for the seat of the Tribunal in the light of the criteria set out in paragraph 6 of resolution 955 (1994), the Secretary-General has been guided by the preference expressed for Rwanda as the location of the seat if feasible and appropriate, or for any other location meeting the criteria set out in the resolution, including, in particular, "access to witnesses". A preference for an "African seat" was thus indicated by the Security Council. Based on this preference the Secretary-General decided that a technical mission to identify suitable premises for the seat of the International Tribunal would visit Rwanda and two of its neighbouring countries, Kenya and the United Republic of Tanzania.

B. Various options for the location of the seat

1. Technical mission report

38. A technical mission headed by the Chief, Administrative and Operations Section, Buildings Management Service of the United Nations Secretariat, visited Rwanda, Kenya and the United Republic of Tanzania during the second half of December 1994. In surveying available premises for the seat of the Tribunal in all three locations, the mission concluded that:

(a) There is a severe shortage of premises in Kigali that could accommodate the needs of the Tribunal properly and provide adequate security. Most buildings suffered heavy damage as a result of the war and extensive and costly repairs would be needed to make them operational again;

(b) Nairobi, as a possible location for the seat of the Tribunal, has the advantage of having the necessary infrastructure, support facilities and communication systems and, more importantly, it has a large United Nations presence. Government officials initially indicated that they would be willing to assist in identifying suitable premises if requested to do so by their Government;

(c) Unlike Nairobi, Arusha lacks adequate infrastructure, and a great number of support facilities would have to be imported. The Government of the United Republic of Tanzania, however, indicated its willingness to support the International Tribunal and assist in its accommodation in Arusha. In that connection a concrete offer was made for the Tribunal to use the premises of the Arusha International Conference Centre for its seat. The mission concluded that, with the necessary construction work, the Centre, which is a self-contained complex equipped with a developed communication system and other facilities, could constitute suitable premises for the seat of the Tribunal.

39. Following the submission of the technical report, a formal request was addressed by the Legal Counsel to the Kenyan Mission to the United Nations to assist in identifying suitable premises for the seat of the Tribunal. In response, the Permanent Representative of Kenya informed the Legal Counsel that, after careful consideration of the various aspects relating to the location of the Tribunal, the Kenyan Government decided that it would not be in a position to provide a seat for the Tribunal.

40. The question of the seat was also raised in a meeting between the Director and Deputy to the Under-Secretary-General, Office of the Legal Counsel, and the Permanent Representative of Rwanda to the United Nations. The Rwandan Ambassador reiterated his Government's position that the seat of the Tribunal should be located in Kigali for the moral and educational value that its presence there would have for the local population. In a spirit of compromise and cooperation, however, he indicated that his Government would raise no objection to the seat of the Tribunal being established in a location easily accessible to Rwanda in a neighbouring State.

2. Criteria for determination of the seat

41. Against this background the Secretary-General has undertaken an examination of the criteria set out in paragraph 6 of resolution 955 (1994) in respect of two countries: Rwanda and the United Republic of Tanzania.

"Justice and fairness"

42. In the view of the Secretary-General, the criterion of "justice and fairness" in the context of selecting a location for the seat means the conduct of trial proceedings in an environment that would ensure justice and fairness to both victims and accused. Although the international character of the Rwanda Tribunal is a guarantee of the just and fair conduct of the legal process, it is nevertheless necessary to ensure not only the reality but also the appearance of complete impartiality and objectivity in the prosecution of persons responsible for crimes committed by both sides to the conflict. Justice and fairness, therefore, require that trial proceedings be held in a neutral territory.

43. In this connection, the Secretary-General notes that, in the atmosphere now prevailing in Rwanda, there are serious security risks in bringing into the country leaders of the previous regime alleged to have committed acts of genocide to stand trial before the International Tribunal.

"Administrative efficiency and economy"

44. On the basis of the technical report, the choice of Kigali as the seat of the Tribunal, even if premises were available, would have entailed extensive and costly repairs to make them operational again. Arusha, on the other hand, has the advantage of having readily available premises, which may be offered either rent-free, or at a very low rate. Furthermore, the proximity of Arusha to victims, witnesses and potential accused persons situated in Rwanda and neighbouring States, and its accessibility by air to and from all of these locations, will considerably reduce the travel costs that would be otherwise entailed in the choice of a more distant location.

3. Recommendation for the seat

45. On the basis of the foregoing and given the positions of the Governments of Rwanda, Kenya and the United Republic of Tanzania and having, in addition, examined the considerations of justice and fairness as well as administrative efficiency, including access to witnesses, and economy, as mandated by paragraph 6 of Security Council resolution 955 (1994), it is my conclusion that the choice of Rwanda as the location of the seat would not be feasible or appropriate and that Arusha, the United Republic of Tanzania, should be selected as the seat of the Tribunal. I, therefore, recommend to the Security Council that, subject to appropriate arrangements between the United Nations and the Government of the United Republic of Tanzania acceptable to the Council, Arusha be determined as the seat of the International Tribunal for Rwanda.

Notes

1/ General Assembly resolution 260 (A) (III).

2/ In resolution 918 (1994), the Council decided to impose sanctions against Rwanda and, in resolution 929 (1994), it authorized a temporary humanitarian operation under the command and control of a Member State ("Operation Turquoise").

3/ In its letter to the Secretary-General of 6 August 1994, the Government of Rwanda stated that an international tribunal, along the lines of the Yugoslav Tribunal, would help to promote peace and reconciliation among the parties and remove destabilizing elements from Rwanda and neighbouring States. The Government undertook to prevent summary executions and to hold in custody persons alleged to have committed acts of genocide pending prosecution by the International Tribunal. In addition, in a statement dated 28 September 1994 on the question of refugees and security in Rwanda (S/1994/1115, annex), the Government of Rwanda called for the setting up, as soon as possible, of an international tribunal to try persons alleged to have committed genocide.

4/ Genocide, according to article I of the Genocide Convention, is a crime under international law whether committed in time of peace or in time of war.

5/ Crimes against humanity were described in article 5 of the statute of the Yugoslav Tribunal as those enumerated in the article, "when committed in armed conflict, whether international or internal in character". Article 3 of the Rwanda statute makes no reference to the temporal scope of the crime; there is, therefore, no reason to limit its application in that respect.

6/ Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of 12 August 1949, Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, of 12 August 1949, Convention relative to the Treatment of Prisoners-of-War of 12 August 1949, Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (United Nations, Treaty Series, vol. 75, No. 970-973).

7/ Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977, (United Nations, Treaty Series, vol. 1125, No. 17513).

8/ Although the question of whether common article 3 entails the individual responsibility of the perpetrator of the crime is still debatable, some of the crimes included therein, when committed against the civilian population, also constitute crimes against humanity and as such are customarily recognized as entailing the criminal responsibility of the individual.

UNITED
NATIONS

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Security Council

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GENERAL ASSEMBLY
Fiftieth session
Items 42, 44, 84 and 85 of
the preliminary list*
QUESTION OF PALESTINE
THE SITUATION IN THE MIDDLE EAST
UNITED NATIONS RELIEF AND WORKS
AGENCY FOR PALESTINE REFUGEES
IN THE NEAR EAST
REPORT OF THE SPECIAL COMMITTEE
TO INVESTIGATE ISRAELI PRACTICES
AFFECTING THE HUMAN RIGHTS OF THE
PALESTINIAN PEOPLE AND OTHER
ARABS OF THE OCCUPIED TERRITORIES

SECURITY COUNCIL
Fiftieth year

Letter dated 8 February 1995 from the Permanent Representative of Morocco to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the final communiqué of the fifteenth session of the Al-Quds Committee, held at Ifrane, Morocco, on 16 and 17 January 1995. I should be grateful if you would have this letter circulated as a document of the General Assembly, under items 42, 44, 84 and 85 of the preliminary list, and of the Security Council.

(Signed) Ahmed SANOUSSI
Ambassador
Permanent Representative

* A/50/50.

95-04377 (E) 160295 160295 170295

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Annex

[Original: Arabic, English and French]

Final communiqué and recommendations of the fifteenth session of Al-Quds Committee
Ifrane, Kingdom of Morocco
15-16 Shaban 1415 H
16-17 January 1995

Responding to a generous invitation of His Majesty Hassan II, King of Morocco, Chairman of Al-Quds Committee and Chairman of the Seventh Islamic Summit, Al-Quds Committee held its fifteenth session in Ifrane, Kingdom of Morocco, on 15 and 16 Shaban 1415 H, corresponding to 16 and 17 January 1995, to consider the grave conditions through which the cause of Al-Quds al-Sharif, the foremost cause of the Islamic Ummah, is passing as a result of Israel's continued occupation of the Holy City and its persistence on implementing its design aimed at Judaizing Al-Quds and obliterating its Arab-Islamic cultural landmarks.

His Excellency Mr. Yasser Arafat, President of the State of Palestine, their Excellencies the Ministers and the delegations of the member States of the Committee, and His Excellency Dr. Hamid Algabid, Secretary General of the Organization of the Islamic Conference (OIC), attended the proceedings of the meeting.

His Majesty King Hassan II, Chairman of Al-Quds Committee and Chairman of the Seventh Islamic Summit, inaugurated the proceedings of the session by a guiding address in which he stressed the importance of the Committee's responsibilities towards the question of Al-Quds al-Sharif in the light of the latest developments and highlighted the need to adapt the Committee's action to this new situation.

His Majesty the King underlined that the question of Al-Quds al-Sharif, with its dual political and religious dimension, requires a realistic and rational approach as well as patience and wisdom and not to act on mere feelings.

His Majesty the King further indicated that the Islamic Ummah harbours no hostility vis-à-vis anybody and cannot accept to be placed before a fait accompli, specifying that Islam is not a religion of war, repression or domination, but rather a religion of understanding, tolerance and, more than that, a religion of coexistence, the latter standing as a criterion of civilization.

H.E. Mr. Yasser Arafat, President of the State of Palestine, delivered a speech highlighting the dangers facing the city of Al-Quds al-Sharif and its religious sanctities, Israel's current attempt to alter its religious character and its Arab-Islamic identity, the continuous confiscation of lands and setting up of settlements. He requested the Islamic Ummah to take action in all

directions and at all levels to face up to the current developments and sustain the steadfastness and struggle of the Palestinian people in the Holy City in particular and in Palestine at large.

H.E. Dr. Hamid Algabid, Secretary General of OIC delivered a statement in which he reviewed the conditions facing Al-Quds al-Sharif and the required action by the Islamic Ummah in support of this cause. His Excellency also reviewed the activities of the General Secretariat concerning the cause of Al-Quds al-Sharif and Palestine.

The members of the Committee deliberated on the current conditions facing Al-Quds al-Sharif, and considered the means likely to lead the recovering of the city and to assist and support the Palestinian citizens and institutions in the Holy City, confronting the Israeli designs aimed at Judaizing the City and changing its cultural, civilizational, religious and demographic characteristics, so as to create a new fait accompli on the ground.

In the light of these deliberations, Al-Quds Committee identified concrete and practical measures and recommended the following:

I. At the international political level, the Committee

1. Affirms that a just and comprehensive peace in the Middle East region cannot be achieved short of the implementation of Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and the principle of land against peace involving Israel's total withdrawal from all occupied Palestinian and Arab territories to the border-lines of 4 June 1967 including the city of Al-Quds al-Sharif, the Syrian Golan and south Lebanon; and enables the Palestinian people to achieve their national inalienable and imprescriptible rights including their rights to return, self-determination and the establishment of their independent State on their national soil, with Al-Quds al-Sharif as its capital;

2. Affirms that the city of Al-Quds al-Sharif is part and parcel of the Palestinian territories occupied in 1967, and further affirms the necessity of its return to the Palestinian sovereignty as the capital of the State of Palestine;

3. Calls on the Islamic Ummah to double its efforts in support of the Palestinian right in Al-Quds al-Sharif, and to assist the stands of the Palestine Liberation Organization and the Palestinian National Authority, by every means so as to transfer all powers and responsibilities in the occupied Palestinian territories, including Al-Quds al-Sharif, to the Palestinian National Authority;

4. Calls on the United Nations Security Council, in particular the two co-sponsors of the Peace Conference, to take necessary measures to compel Israel to desist from carrying out any settlement and Judaization of Al-Quds and any geographic or demographic changes therein, and to comply with agreements and conventions providing for the preservation of the Palestinian institutions and the Islamic and Christian holy sites at Al-Quds al-Sharif in implementation of relevant Security Council resolutions;

5. Requests States to abide by Security Council resolution 478 (1980), which calls for refraining from transferring their diplomatic missions to the city of Al-Quds al-Sharif. It reaffirms that all the legislative, administrative and settlement measures aimed at changing the legal status of the Holy City are null and contrary to international agreements, charters and conventions, in accordance with the resolutions of international legality, including United Nations Security Council resolutions 465 (1980), 476 (1980) and 478 (1980), as well as the resolutions of the United Nations General Assembly which consider these measures null and void;

6. Strongly denounces the decision of the Israeli Knesset on 26 December 1994, which bans any activities of the Palestinian institutions in Al-Quds al-Sharif, and requests the international community not to recognize this decision and to compel Israel to waive this decision;

7. Condemns the repeated Israeli aggressions perpetrated against the Lebanese territory as well as the casualties and destruction caused by these aggressions;

8. Requests His Majesty King Hassan II, King of the Kingdom of Morocco, Chairman of Al-Quds Committee and Chairman of the Seventh Islamic Summit, to pursue contacts which he deems necessary, at the international level, particularly with the United Nations Security Council member States, the two co-sponsors of the Peace Conference, the European Union, the Vatican and other Christian instances, so as to gain the needed support and assistance to recover the city of Al-Quds, and to explain the dangers of Israeli practices and measures jeopardizing the peace process, security and stability in the Middle East region;

9. Calls on the Secretary-General to carry out the necessary contacts with the international and regional organizations as well as specialized international agencies, so as to consider ways to preserve the civilizational, cultural and religious heritage of the Holy City, and sustain the resistance of its inhabitants;

10. Decides to establish a contact group at the level of the Permanent Representatives of the Committee's member States at United Nations Headquarters in New York in order to follow up the implementation of the Committee's resolutions and those of the United Nations Security Council relating to Al-Quds al-Sharif;

II. At the level of assisting the city of Al-Quds al-Sharif

11. Stresses the important role of Al-Quds Fund in supporting the steadfastness of the citizens and institutions of the Holy City against Israeli designs. It calls on the OIC member States to abide by financing the budgets of both Al-Quds Fund and its Waqf in order to promote urban development of Al-Quds, and to construct housing units, restore its old monuments with the aim of preserving the civilizational and Islamic heritage;

12. Decides to grant permission to the Board of Directors of Al-Quds Fund to exercise the powers stipulated in the statute and regulations of Al-Quds Fund, referred to in articles 2, 3 and 8;

13. Welcomes the proposal of His Majesty Hassan II, King of Morocco, Chairman of Al-Quds Committee and Chairman of the Seventh Islamic Summit to create Bayt Al-Mal of Al-Quds al-Sharif for the safeguard of the city of Al-Quds al-Sharif, protection of the Palestinian right to the city, assistance to the steadfastness of its inhabitants and preservation of its civilizational, religious, cultural and urbanistic heritage;

This Bayt Al-Mal will take the form of an agency which aims to mobilize material and financial resources from OIC member States, institutions, bodies, private sector, associations, Islamic and Arab communities as well as individuals.

The agency will operate under the aegis of Al-Quds Committee and its management will be ensured according to the following general principles:

- The agency will carry out its activities in compliance with the rules governing the private sector;

- It will perform in utter transparency and accountability;

- It will be subject to private accountancy and financial auditing twice a year by the Al-Quds Committee.

The Presidency of the Al-Quds Committee will undertake to prepare a draft statute for the Agency, which will soon be conveyed to the member States through the OIC General Secretariat to allow them to examine the draft statute and take necessary measures prior to the creation of the Agency and its establishment by the Islamic Conference.

The Committee expresses its profound gratitude and sincere thanks to His Majesty, to the Government and the people of the Kingdom of Morocco for the generous hospitality and warm welcome extended to the delegations participating in this session.

Appendix

[Original: English]

States members of Al-Quds Committee

1. Kingdom of Morocco
2. State of Palestine
3. Kingdom of Saudi Arabia
4. Hashemite Kingdom of Jordan
5. Republic of Iraq
6. Syrian Arab Republic
7. Republic of Lebanon
8. Islamic Republic of Mauritania
9. Arab Republic of Egypt
10. People's Republic of Bangladesh
11. Islamic Republic of Pakistan
12. Islamic Republic of Iran
13. Republic of Indonesia
14. Republic of Senegal
15. Republic of the Niger
16. Republic of Guinea

UNITED NATIONS **S**

Security Council

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S/1995/136
14 February 1995
ENGLISH
ORIGINAL: RUSSIAN

LETTER DATED 14 FEBRUARY 1995 FROM THE REPRESENTATIVES OF KAZAKHSTAN, KYRGYZSTAN, THE RUSSIAN FEDERATION, TAJIKISTAN AND UZBEKISTAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

We have the honour to transmit the text of a joint appeal dated 10 February 1995 addressed to you by the Presidents of the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan (see annex).

We request that you have this letter and its annex circulated as a document of the Security Council.

(Signed) M. SYZDYKOV
Chargé d'affaires a.i.
of the Permanent Mission
of the Republic of Kazakhstan
to the United Nations

(Signed) A. AITMATOV
Chargé d'affaires a.i.
of the Permanent Mission
of the Kyrgyz Republic
to the United Nations

(Signed) S. LAVROV
Permanent Representative
of the Russian Federation
to the United Nations

(Signed) L. KAYUMOV
Permanent Representative
of the Republic of Tajikistan
to the United Nations

(Signed) F. TESHABAEV
Permanent Representative of the
Republic of Uzbekistan to the
United Nations

Annex

Joint appeal dated 10 February 1995 from the Presidents of the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan addressed to the President of the Security Council

The meeting in Alma Ata of the heads of the States members of the Commonwealth of Independent States gave us an opportunity to conduct a thorough review of the situation in and around Tajikistan, which is a source of great anxiety for us. We reaffirmed our conviction that there is no alternative to a settlement of the Tajik conflict through peaceful, political means. It is extremely important to point out that the deployment of the Collective Peace-keeping Forces of the Commonwealth of Independent States not only helped prevent the conflict from escalating to a point that endangered international peace but also, by stabilizing the situation, promoted a dialogue between the leaders of Tajikistan and the opposition.

In spite of all the real difficulties, substantial results have been achieved in the process of a political settlement: inter-Tajik talks have begun and are continuing; the Agreement on a Cease-fire was signed on 17 September 1994 and has been extended; the Tajik parties have exchanged prisoners of war and other prisoners; and most of the Tajik refugees in Afghanistan have returned home. This was made possible in large part by support from the United Nations and the States that encouraged an inter-Tajik dialogue. In particular, we welcome the fact that the Security Council of the United Nations, acting in full accordance with its responsibility for maintaining international peace and security, by its resolution 968 (1994) established the United Nations Mission of Observers in Tajikistan.

At the same time, the situation in and around Tajikistan continues to pose a threat to regional peace and stability and therefore calls for more decisive action on the part of the international community. While it is clear that the principal responsibility lies with the Tajik parties themselves, the burden of mutual mistrust and enmity complicates efforts to achieve real national reconciliation. The time has come to make more effective use of the international factor: the peace-keeping capacity and potential of the United Nations.

Kazakhstan, Kyrgyzstan, the Russian Federation and Uzbekistan, which have assigned their military personnel to serve in the Collective Peace-keeping Forces of the Commonwealth of Independent States, have already expressed their support for the initiative put forward in the letter of 25 January 1995 from the President of Tajikistan to the Secretary-General on the world Organization's greater participation in finding a settlement to the conflict in Tajikistan. We request the Security Council of the United Nations to respond to that appeal and take a decision that gives the green light to the establishment in Tajikistan of a full-fledged peace-keeping operation, whose composition and mandate would be in keeping with the major tasks involved in the settlement of the conflict. At the same time, we base our request on the existence of the precondition, the importance of which was underscored by the Secretary-General in his latest

report on peace-keeping: the opposed sides are prepared to accept assistance and "want to help themselves".

At the same time, we are aware that the United Nations bears the heavy burden of maintaining stability in many regions of the world. In order to facilitate the Organization's mission, Kazakhstan, Kyrgyzstan, the Russian Federation and Uzbekistan declare their willingness to make available to the operation during its initial stage, to serve as United Nations peace-keeping forces, their units that are currently part of the contingent of the Collective Peace-keeping Forces.

We hope that the Security Council understands the reasons for this appeal. The great prestige of the United Nations and its influence on the parties to the conflict in Tajikistan can ensure a breakthrough in efforts to achieve a stable and lasting settlement and national reconciliation in Tajikistan.

President of the Republic of Kazakhstan: N. NAZARBAEV

President of the Russian Federation: B. YELTSIN

President of the Kyrgyz Republic: A. AKAEV

President of the Republic of Tajikistan: E. RAKHMONOV

President of the Republic of Uzbekistan: I. KARIMOV

Alma Ata
10 February 1995

UNITED
NATIONS

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Security Council

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ORIGINAL: ARABIC

LETTER DATED 12 FEBRUARY 1995 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On 9 February 1995, the Voice of America, which reflects the views of the United States Government, broadcast a commentary containing false allegations concerning unlawful violations of human rights in Libya.

The Great Jamahiriya refutes the sophistries and fabrications contained in the commentary, which have the purpose, precisely at this time, of misrepresenting the human rights record in Libya. At the same time, they are to be seen in the framework of the vicious campaign being waged by the United States of America against Libya in order to obstruct its endeavours to achieve economic and social development and ensure the welfare of its people.

As we have declared on many occasions in the past, we are prepared for an impartial inquiry into human rights violations, in any form whatever, and into the grounds for these false allegations. At the same time, we insist on an inquiry in the very country that accuses other countries of violating human rights, namely the United States of America.

In light of the foregoing, we call upon the General Assembly, the Security Council and other relevant organs to make appropriate arrangements for the conduct of the necessary inquiries in order to bring to light and publicize to the world the true situation with respect to the falsity of these allegations. In this connection, we must affirm our national sovereignty over our country and our total rejection of interference in our internal affairs, a principle that must be respected in the framework of relations between States in accordance with the Charter of the United Nations and all international laws and customs.

The United States of America, which claims to be the world's greatest defender of human rights, must look to itself and must examine its own record of numerous human rights violations, of oppression and of racial discrimination, particularly against Blacks and American Indians. The events that took place in Los Angeles provide the best indication of that.

The United States has been alarmed and disconcerted by the political stability enjoyed by the Libyan people, by the fact that it rallies to its leadership and by its steadfast character despite the iniquitous economic embargo imposed as a result of the hegemony of certain major Powers in the Security Council, chiefly the United States of America itself. Its only expedient has been to disseminate mendacious rumours aimed at undermining stability and injuring the reputation of the Great Jamahiriya and at casting doubt on its political system, which is based on respect for human rights under the direct power of the people and which gives all citizens the freedom to express their views and to make their own decisions.

The Jamahiriya, which made an active contribution to promoting respect for human rights when it adopted the Great Green Document on Human Rights in Libya, cannot allow such false allegations to gain acceptance. It calls upon the international community to strive to put an end to this encroachment on the rights of others.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Mohamed A. AZWAI
Permanent Representative

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14 February 1995

ORIGINAL: ENGLISH

LETTER DATED 13 FEBRUARY 1995 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose herewith resolution CM/RES/1566/LXI adopted by the Council of Ministers of the Organization of African Unity at its sixty-first session concerning the crisis between the Libyan Arab Jamahiriya and the United States of America, the United Kingdom of Great Britain and Northern Ireland and France.

I should be most grateful if you would circulate this resolution as a document of the Security Council.

(Signed) Mohamed A. AZWAI
Permanent Representative

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Annex

[Original: Arabic, English and French]

Resolution CM/RES/1566/LXI concerning the crisis between the Great Libyan Arab Jamahiriya and the United States of America, the United Kingdom of Great Britain and Northern Ireland and France

The Council of Ministers of the Organization of African Unity, meeting at its sixty-first ordinary session in Addis Ababa, Ethiopia, from 23 to 27 January 1995,

Having considered the report of the Secretary-General on the dispute between the Great Socialist People's Libyan Arab Jamahiriya and the United States of America, the United Kingdom and France, and, having also heard the statement of the Head of the Libyan Delegation and the ensuing interventions of delegations on the dispute between Libya and the three Western countries,

Guided by the purposes and principles of the charters of both the United Nations and the Organization of African Unity, calling on member States to refrain from the use or the threat of force, settle their disputes by peaceful means, respect the independence of all member States and refrain from any threat to their sovereignty, territorial integrity and the security of their peoples,

Recalling the statement of 6 December 1991 issued by the Secretary-General of the Organization of African Unity on the American and British threats against the Great Jamahiriya as well as his appeal to the parties concerned to exercise self-restraint, seek a solution through dialogue and other peaceful means in consonance with the provisions of international law, respect of the sovereignty of States and refrain from any act that might impede the legal process,

Referring to resolution CM/Res.1457 of the fifty-eighth ordinary session of the Council of Ministers held in Cairo from 21 to 26 June 1993 and resolution CM/Res.1527 of the sixtieth ordinary session of the Council of Ministers held in Tunis from 6 to 11 June 1994,

Further recalling the statement issued by the summit meeting of the Central Organ of the Organization of African Unity Mechanism for Conflict Prevention, Management and Resolution held in Cairo on 7 December 1993, endorsing the previous resolution on solidarity with the Great Socialist People's Libyan Arab Jamahiriya and supporting the latter's efforts to secure a peaceful settlement of the crisis within the framework of respect for Libyan national sovereignty and the principles of international law,

Taking into consideration the position of the Great Jamahiriya which condemns all forms of terrorism and denounces those who resort to terrorism or encourage it as well as Libya's willingness to cooperate with every regional or international effort aimed at solving this problem,

Expressing its appreciation for the positive initiative of the Great Jamahiriya to settle the dispute, its acceptance of Security Council resolution 731 (1992), its request to the Secretary-General of the United Nations to establish a mechanism to implement the said resolution and its expression of its complete readiness to cooperate within the framework of the initiatives and proposals put forward by him,

Greatly concerned about the human and material damage that the Libyan Arab people and the peoples of the neighbouring States are suffering as a result of the unjust sanctions imposed on Libya pursuant to United Nations Security Council resolutions 748 (1992) and 883 (1993),

Noting with regret the disregard of the three Western countries for all successive resolutions adopted by the regional organizations expressing their support for a just and equitable settlement of the dispute,

Reaffirming the serious dangers that will result from the continuation of the Lockerbie crisis to the peace and security of Africa, particularly the North African and Mediterranean region, if the crisis is not resolved to the satisfaction of all the parties:

1. Expresses appreciation for the declaration issued by the Great Socialist People's Libyan Arab Jamahiriya condemning terrorism and expressing its readiness to cooperate fully with any party in combating terrorism within the framework of international efforts and commends the responsible and restrained manner in which Libya is dealing with this crisis;

2. Expresses its grave concern over the escalation of this crisis and the threat to impose further sanctions or use force as a method in dealing with other States in violation of the Charters of the Organization of African Unity and the United Nations as well as international laws and standards;

3. Reaffirms its solidarity with the Great Socialist People's Libyan Arab Jamahiriya and calls on all to refrain from any action that could lead to an escalation of tensions, thus causing the Libyan Arab Jamahiriya and the neighbouring States further damage;

4. Calls on all parties concerned to respond positively to the initiatives for dialogue and negotiations to secure a peaceful settlement to the crisis in conformity with Article 33 of the United Nations Charter, which calls for the settlement of disputes through negotiation, mediation and judicial procedures, and calls for a fair and impartial trial of the two suspects in a neutral country to be agreed upon by all the parties concerned;

5. Decides to set up a Ministerial Committee of the Council composed of the Deans of the five Organization of African Unity geographical regions, to establish contacts with the parties to the dispute, coordinate efforts and initiatives and open channels for dialogue to secure a peaceful and just settlement to the dispute;

6. Reiterates its appeal to the Security Council to reconsider its resolutions 731 (1992), 748 (1992) and 883 (1993) and to lift the sanctions on Libya in appreciation for the positive initiatives it has put forward and in response to the resolutions adopted by the regional organizations with a view to settling the dispute and calls on the Security Council to adopt a new resolution guaranteeing a fair trial of the two suspects in a place to be agreed upon in order to reveal the truth and do justice to the victims and their families;

7. Requests the Secretary-General of the Organization of African Unity to intensify his efforts to find a speedy solution to this crisis and report on the matter to the sixty-second ordinary session of the Council of Ministers.

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GENERAL ASSEMBLY
Forty-ninth session
Agenda item 74
PROTECTION AND SECURITY OF
SMALL STATES

SECURITY COUNCIL
Fiftieth year

Letter dated 14 February 1995 from the Permanent Representative of Ecuador to the United Nations addressed to the Secretary-General

I have the honour to transmit to you for information the official bulletin issued by the Office of the President of the Republic of Ecuador on 13 February 1995 concerning the cease-fire on the border between Ecuador and Peru.

I should be grateful if you would have the bulletin distributed as a document of the General Assembly, under agenda item 74, and of the Security Council.

(Signed) Luis VALENCIA RODRIGUEZ
Permanent Representative

95-04509 (E) 150295 150295 160295

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Annex

OFFICIAL BULLETIN

Quito, 13 February 1995

The Ecuadorian Government,

Declares that the cease-fire decision by the Government of Peru, announced by means of official communiqué No. 6-95 of the Ministry of Foreign Affairs of that country, constitutes acceptance of the similar declaration made by our Government on 31 January last, which could not be put into effect because constant Peruvian attacks called for heroic defensive action by the Ecuadorian armed forces;

States that it welcomes the cease-fire decision by the Peruvian Government;

Declares that the Ecuadorian armed forces will not fire their weapons if they are not attacked;

Reiterates its invitation for observers from the guarantor countries to verify the cease-fire and the restoration of peace;

Invites the national and foreign mass media, the International Committee of the Red Cross and human rights organizations to visit the Coangas, Tiwintza, Base Sur, Cueva de los Tayos and Cóndor Mirador border posts, which remain under the control of the Ecuadorian armed forces;

Thanks the guarantor countries for their tireless search for peace, a goal which Ecuador shares unswervingly, and commits them to continuing to provide the invaluable assistance that will ensure that the cease-fire is effective, by sending observers and applying the other mechanisms considered at the Brasilia meetings.

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General Assembly
Security Council

Distr.
GENERAL

A/49/850
S/1995/140
15 February 1995

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 39
THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Fiftieth year

Letter dated 15 February 1995 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Secretary-General

I have the honour to transmit a letter dated 8 February 1995 from His Excellency Mr. Alija Izetbegović, President of the Presidency of the Republic of Bosnia and Herzegovina, addressed to you.

May I ask for your kind assistance in distributing this letter and its annex as a document of the forty-ninth session of the General Assembly, under agenda item 39, and of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative

95-04529 (E) 150295 160295

ANNEX

Letter dated 8 February 1995 from the President of Bosnia and Herzegovina addressed to the Secretary-General

The Sarajevo Airport and the route from the airport to the city were allocated for United Nations usage under special agreements. This arrangement was meant to facilitate the airlift and the supply of humanitarian aid to Sarajevo. United Nations activities at the airport and transportation from the airport to the city are now under the virtual control of the Serbian aggressor side and no longer under United Nations control, contradicting our agreements and the United Nations mandate.

Currently, those Serbs deployed at the airport have paralysed the United Nations work, while all United Nations agencies are effectively blocked at the airport and can only make deliveries into the city if and when the Serbian aggressor side allows. For months now, medical supplies, food for children, equipment provided for the Action Plan for Sarajevo and other commodities intended for Sarajevo remain stocked at the airport.

With the establishment of a Serb aggressor checkpoint on a route allocated for exclusive United Nations use, the United Nations has lost control of this route, forcing all commodities to pass through the checkpoint at which the Serbian aggressor decides whether or not to give transport clearance to United Nations organizations, as well as frequently looting these deliveries.

The current airlift situation has challenged and brought into question the entire mandate and the dignity of the United Nations.

We demand that the airport and the route from the airport to the city be placed under the full control of the United Nations, in accordance with the provisions stipulated in the agreements. Furthermore, Serbian control may be established only where aeroplanes are unloaded (so as to verify that the airlift is not being used to deliver military arms).

We also demand the removal from the airport of those local staff other than the unloading inspectors. All other commodities handling must be in the exclusive authority of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Protection Force (UNPROFOR).

Any other solution is unacceptable to our Government. We hope that this request will be acted upon as soon as possible to allow normalization of the aid delivery.

(Signed) Alija IZETBEGOVIĆ

UNITED NATIONS **S**

Security Council

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GENERAL

S/1995/141
15 February 1995
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 15 FEBRUARY 1995 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 15 February 1995 from Mr. Mohammed Said Al-Sahaf, Minister for Foreign Affairs of the Republic of Iraq, concerning the recent Iranian aggression against Iraq.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

95-04579 (E) 160295 160295 170295

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Annex

Letter dated 15 February 1995 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General

I have the honour to inform you that after midnight on 11 February 1995 large-scale military forces of the Iranian regime carried out a wide-ranging offensive against our units in the Hawr al-Hawizah area of Iraq close to the Iraq-Iran boundary. The offensive, in which all types of light and medium weapons were used, continued until 13 February 1995, when the Iraqi forces succeeded in repelling it. A number of Iranians, members of the attacking force, were captured.

Questioning of prisoners indicated that one week prior to the offensive an Iranian division had moved from Dizful to the Shatt Ali area to the east of Hawr al-Hawizah and had concentrated there. Reconnaissance of Iraqi positions had also been carried out by the commanders of Iranian companies and battalions participating in the attack. An Iranian force had also carried out an exercise in the Shatt Ali area on occupying objectives by silent assault.

This Iranian attack constitutes patent aggression against Iraq, and it is a flagrant violation of Security Council resolution 598 (1987) and a violation of the norms of international law. It is not the first action of its kind, and there have previously been numerous acts of aggression against Iraq by Iran that have included the use of warplanes to bombard locations inside Iraqi territory. The Government of Iraq would like to call your attention to the fact that this fresh Iranian act of aggression would not have taken place had it not been for the arbitrary and unilateral decision of the United States to impose a ban on Iraqi aircraft south of the 32nd parallel. This prevents Iraq from using its aircraft even for purposes of reconnaissance with a view to ensuring the protection and defence of its sovereignty and security. In accordance with your responsibilities, particularly under the terms of resolution 598 (1987), we hope that you will take the necessary measures to prevent any recurrence of such aggression on the part of Iran. We further hope that you will bring pressure to bear on the Government of the United States to lift the unilateral ban on aircraft that it is maintaining in the north and south of the country so as to enable Iraq to exercise its legitimate right to defend its sovereignty, independence, security and territorial integrity in accordance with Article 51 of the Charter of the United Nations.

I should further like to call attention to the collusion that preceded this operation between circles that are well known to be clients of the rulers of Iran and Kuwaiti government officials. This aggression took place within a few days of the visit to Kuwait of the person known as Muhammad Baqir al-Hakim, leader of the so-called "Supreme Council of the Islamic Revolution in Iraq", and of his meeting with the Amir, the Prime Minister and senior officials. This is to be regarded as open intervention by the Government of Kuwait in Iraq's internal affairs, as a shameless attempt to undermine the country's internal situation and as a flagrant violation of the norms of international law and the relevant Security Council resolutions.

In conclusion, I request you to have this letter brought to the attention of the Security Council and to have it circulated as a document of the Council.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs
of the Republic of Iraq

UNITED NATIONS **S**

Security Council

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GENERAL

S/1995/142
17 February 1995

ORIGINAL: ENGLISH

LETTER DATED 16 FEBRUARY 1995 FROM THE PERMANENT REPRESENTATIVE OF ANGOLA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit the following message from H.E. Mr. Jose Eduardo dos Santos, President of the Republic of Angola, with the request that it be circulated as a document of the Security Council.

(Signed) Afonso VAN-DUNEM "Mbinda"
Permanent Representative

95-04762 (E) 170295 210295

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Annex

Letter dated 14 February 1995 from the President of Angola addressed to the Secretary-General

I have the honour to write to you and congratulate you on the establishment of the United Nations Angola Verification Mission (UNAVEM) III and express our gratitude for the efforts made by all countries members of the Security Council that contributed to the adoption of such an important resolution for the Angolan peace process.

Therefore, whilst it welcomes the decision with regard to the deployment of the United Nations peace-keeping forces, whose implementation will prove to be of extreme importance for peace in Angola, the Angolan Government cannot fail to express its concern about the contents of the second part of paragraph 12 of Security Council resolution 976 (1995), which was just adopted.

In effect, the Angolan Government considers that the request contained in the above-mentioned paragraph is not in conformity with the prerogatives of the democratically elected Government of a sovereign country that has been recognized the right to exercise fully its sovereignty and defend its territorial integrity as well as to have the indispensable means to achieve that objective as, moreover, was recognized, in the particular case of Angola, in Security Council resolution 851 (1993).

Consequently, over and above the difficulties that the Angolan Government encounters in adhering to that request as it conflicts with the fundamental principles of the Angolan Constitution, the implicit reference in the aforementioned provision of resolution 976 (1995) to restoring the already outdated "triple-zero clause" from the Peace Accords constitutes a departure from and is incompatible with the signed text of the Lusaka Protocol, whose spirit and letter recognize the rights and competences of the Government on the issue of national defence and in relation to the need to accomplish the outstanding tasks of the above-mentioned peace accords.

The Angolan Government remains loyal to its attitude of scrupulous compliance with the outstanding tasks of the peace accords and the Lusaka Protocol, respecting and upholding respect of the established cease-fire, and at the same time considers of vital importance the role of the United Nations peace-keeping forces for the implementation of that objective, which constitutes an indispensable condition for the establishment of peace in Angola and the rapid implementation of the humanitarian and social programmes that would make it possible to alleviate the suffering of the Angolan people and guarantee their development and that of their democratic institutions.

I would like to reiterate the commitment of the Angolan Government to make every contribution so that the peace process can have a happy ending and, in this context, reaffirm its willingness to continue collaborating closely with the United Nations, in extending all its cooperation so that UNAVEM III may accomplish its mission of peace in Angola in the best possible way.

Obviously, the success of UNAVEM III's mission in Angola will depend also upon the attitude that the União Nacional para a Independência Total de Angola (UNITA) assumes before the implementation of the Lusaka Protocol, and we would therefore wish that the United Nations also obtains the necessary cooperation from that organization.

Allow me to request your good offices in circulating the present letter as a document of the Security Council.

(Signed) Jose Eduardo DOS SANTOS
President of the Republic of Angola

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S/1995/143
17 February 1995

ORIGINAL: ENGLISH

LETTER DATED 6 FEBRUARY 1995 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I would like to bring to the attention of the members of the Security Council certain concerns with regard to the forthcoming end of the mandate of the United Nations Observer Mission in El Salvador (ONUSAL).

It will be recalled that, in the report I submitted on 31 October 1994 (S/1994/1212) on the occasion of the expiry of ONUSAL's previous mandate period, I recommended to the Security Council the extension of ONUSAL until 30 April 1995, at which date that part of its functions requiring military and police personnel would have been completed. I also informed the Council that, before the Mission's termination, I would present my thoughts on mechanisms to maintain the capacity of the United Nations to verify compliance with those parts of the peace accords whose implementation was still pending, in accordance with the commitment undertaken by the United Nations as reaffirmed by the Council.

In resolution 961 (1994), the Security Council approved my recommendations regarding ONUSAL's performance of its mandate and decided to renew the mandate "for one final period until 30 April 1995". The Council also requested me to "report by 31 March 1995 on ONUSAL, including on the fulfilment and completion of its mandate and on modalities for its withdrawal, to be completed by 30 April 1995, in a manner consistent with the effective performance of its duties".

Informal reports on the status of the 19 May 1994 timetable for the implementation of the most important outstanding agreements have been made available periodically to the members of the Security Council. As they will see from the latest report, which is submitted separately, a somewhat disquieting situation still obtains, particularly as regards the implementation of agreements concerning land and other reintegration programmes including the difficult issue of human settlements, as well as those related to the judiciary, electoral reform and the binding recommendations of the Commission on the Truth. The recent forcible takeover of the Legislative Assembly and the Ministry of Finance and of land by members of the Association of Demobilized Members of the Armed Forces, which was fortunately defused with the assistance of ONUSAL, is but one symptom of lingering discontent at the failure to implement some parts of the peace agreements.

These considerations reaffirm my conviction that it is essential to put in place, following the disbandment of ONUSAL per se, a mechanism to continue the verification responsibilities and the good offices function that ONUSAL has carried out to date. I am raising the matter at this time, without waiting until late March, because the Council's decision in resolution 961 (1994) that ONUSAL's withdrawal should be completed by 30 April 1995 has the practical effect of reducing, well before that date, ONUSAL's capability to perform its duties effectively. This is because measures have to be taken well in advance of that date to draw down the Mission's personnel. It therefore becomes urgent that decisions be taken to enable the United Nations to continue to discharge its responsibilities without interruption, as has been requested by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN), the signatories to the peace agreements.

The arrangement that I propose to put in place would consist of a small team of about eight Professionals, with the necessary support staff. This team would have the capability to provide good offices, to verify implementation of the outstanding points on the peace agreements and to provide a continuing flow of accurate and reliable information so that I can keep the Security Council informed as necessary.

ONUSAL has been coordinating closely with the Resident Representative of the United Nations Development Programme (UNDP) in El Salvador in order to ensure that the latter is in a position to continue to help to consolidate peace. I would ensure that this cooperation continues so as to maintain a truly integrated approach in the post-conflict peace-building phase. I would hope to minimize the costs of the United Nations team by utilizing UNDP facilities. However, it would be necessary for the team to maintain a separate identity, given its inherently political tasks and responsibilities and the fact that verification and good offices require an independence and impartiality that could prove difficult to reconcile with UNDP's role as a partner of the Government. The United Nations team would of course advise UNDP on the execution of peace-related programmes.

I would propose to establish this team of Professionals for an initial period of six months from the end of ONUSAL's mandate.

(Signed) Boutros BOUTROS-GHALI

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GENERAL

S/1995/144
17 February 1995

ORIGINAL: ENGLISH

LETTER DATED 17 FEBRUARY 1995 FROM THE PRESIDENT OF THE SECURITY COUNCIL ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to inform you that your letter dated 6 February 1995 (S/1995/143), concerning the arrangement that you propose to put in place following the termination of the United Nations Observer Mission in El Salvador (ONUSAL) has been brought to the attention of the members of the Council. They welcome the proposal contained in your letter that verification responsibilities and the good offices function be carried out under your authority, in the manner you propose.

(Signed) Legwaila Joseph LEGWAILA
President of the Security Council

95-04748 (E) 170295 180295

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~~A/49/851~~
S/1995/145
17 February 1995

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GENERAL ASSEMBLY
Forty-ninth session
Agenda items 8 and 112
ADOPTION OF THE AGENDA AND
ORGANIZATION OF WORK
SCALE OF ASSESSMENTS FOR THE
APPORTIONMENT OF THE EXPENSES
OF THE UNITED NATIONS

SECURITY COUNCIL
Fiftieth year

Letter dated 17 February 1995 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letter dated 24 January 1995 from the Chargé d'affaires of the Permanent Mission of the "Federal Republic of Yugoslavia (Serbia and Montenegro)" to the United Nations, Mr. Dragomir Djokić, addressed to you (A/49/839-S/1995/75 and Corr.1).

The Federal Republic of Yugoslavia (Serbia and Montenegro) is one of the five equal successor States that resulted from the dissolution of the former Socialist Federal Republic of Yugoslavia (SFRY). It did not "continue to exist in international relations as a contracted Yugoslav federation", nor is it "the owner of the assets of the Socialist Federal Republic of Yugoslavia in the territories that seceded from the former federation", as is incorrectly asserted in the letter. My Government has on numerous occasions recalled the relevant provisions of resolutions 777 (1992) of 19 September 1992 and 821 (1993) of 28 April 1993 of the Security Council, and resolutions 47/1 of 22 September 1992 and 47/229 of 29 April 1993 of the General Assembly, which clearly lay down the legal aspects of the dissolution of the former common federation. The findings of the Badinter Commission mandated by the European Union give the legal findings. Thus, the position of the Federal Republic of Yugoslavia (Serbia and Montenegro) is legally indefensible and the arguments are purposely misleading.

Further, the Federal Republic of Yugoslavia (Serbia and Montenegro) has retracted a part of its original letter, by requesting a corrigendum to this effect, recanting the statements that it "does not claim to be the sole

successor of the former federation"; that it "participates in the negotiations of the division of assets and liabilities of the former Socialist Federal Republic of Yugoslavia"; that it "recognizes that some of the funds frozen by the introduction of the sanctions regime against the Federal Republic of Yugoslavia (Serbia and Montenegro) did belong to the Socialist Federal Republic of Yugoslavia" and "are subject of the negotiations taking place in Geneva". By this retraction, my Government has no other option but to conclude that now the Belgrade regime will claim to be the sole successor of the Socialist Federal Republic of Yugoslavia; that it will stop its participation in negotiations in Geneva; and that it will claim that all of the funds frozen by the sanctions belong to enterprises, banks and state entities from the Federal Republic of Yugoslavia (Serbia and Montenegro).

This and other repeated attempts by the Federal Republic of Yugoslavia (Serbia and Montenegro) to be de facto accepted as a continuation of the international legal personality of the former SFRY are in direct contravention of the relevant Security Council and General Assembly resolutions, and of customary international law.

It is our firm belief that the ambiguous situation in the treatment of the Federal Republic of Yugoslavia (Serbia and Montenegro) within the United Nations would be effectively terminated by, inter alia, removing the name-plate "Yugoslavia" from the premises of the United Nations, and removing the flag of the former common State, the Socialist Federal Republic of Yugoslavia, from the United Nations mast. In this manner, the fact proclaimed so long ago by the Security Council and the General Assembly that "the Socialist Federal Republic of Yugoslavia has ceased to exist" would finally be clearly reflected and the attempts by the Federal Republic of Yugoslavia (Serbia and Montenegro) to circumvent the relevant resolutions would be prevented.

I would kindly request your assistance in circulating the text of the present letter as a document of the forty-ninth session of the General Assembly, under agenda items 8 and 112, and of the Security Council.

(Signed) Mario NOBILO
Ambassador
Permanent Representative

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~~A/49/852~~
S/1995/146
17 February 1995

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda items 8 and 112
ADOPTION OF THE AGENDA AND
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REPORTS OF THE GENERAL
COMMITTEE
SCALE OF ASSESSMENTS FOR THE
APPORTIONMENT OF THE EXPENSES
OF THE UNITED NATIONS

SECURITY COUNCIL
Forty-ninth year

Letter dated 17 February 1995 from the Permanent Representative of Slovenia to the United Nations addressed to the Secretary-General

Upon the instructions of my Government, I have the honour to refer to the letter dated 24 January 1995 from Ambassador Dragomir Djokić (A/49/839-S/1995/75 and Corr.1).

The views expressed in that letter are legally and factually unfounded and contravene the relevant resolutions adopted by the Security Council and the General Assembly. In particular, this is the case with regard to the assertions that "the Federal Republic of Yugoslavia continued to exist in international relations as a contracted Yugoslav federation" and that "the Federal Republic of Yugoslavia - pending the conclusion of the agreement to regulate the effects of secession from the Yugoslav federation - is the owner of the assets of the Socialist Federal Republic of Yugoslavia in the territories that seceded from the former federation".

In this connection it is necessary to recall that the Security Council stated, in its resolution 777 (1992) of 19 September 1992, that "the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist". Furthermore, in the same resolution, the Security Council stated that "the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations" and recommended to the General Assembly that it "decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly".

The above Security Council resolution represents a clear and authoritative statement concerning the basic legal and factual aspects of the dissolution and extinction of the former SFR Yugoslavia and was confirmed subsequently by the Council in its resolution 821 (1993) of 28 April 1993 and by the General Assembly in its resolutions 47/1 of 22 September 1992 and 47/229 of 29 April 1993.

The repeated attempts by the "Federal Republic of Yugoslavia (Serbia and Montenegro)", one of the successor States of the former SFR Yugoslavia, to be de facto accepted as continuing the international personality of the former SFR Yugoslavia are in direct contravention of the above-mentioned resolutions. These attempts have been, to a certain extent, facilitated by the ambiguous situation within the United Nations, where some of the attributes of the former SFR Yugoslavia are still present although that former State no longer exists. We consider that it would be appropriate to put an end to this ambiguity by, inter alia, removing the flag and the name-plate of the former SFR Yugoslavia from the premises of the United Nations. Thus, the fact that the former SFR Yugoslavia ceased to exist would at last be adequately reflected. Moreover, this would prevent any further attempts to circumvent the relevant resolutions of the General Assembly and the Security Council on this matter.

I should be grateful if you would have the text of the present letter circulated as a document of the forty-ninth session of the General Assembly, under agenda items 8 and 112, and of the Security Council.

(Signed) Danilo TÜRK
Ambassador
Permanent Representative

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~~A/49/853~~
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17 February 1995

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
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REPORTS OF THE GENERAL
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SECURITY COUNCIL
Fiftieth year

Letter dated 16 February 1995 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letter dated 24 January 1995 from Ambassador Dragomir Djokić (A/49/839-S/1995/75 and Corr.1).

The said letter asserts that the so-called Federal Republic of Yugoslavia (Serbia and Montenegro) "continued to exist in international relations as a contracted Yugoslav federation" and that the "Federal Republic of Yugoslavia - pending the conclusion of the agreement to regulate the effects of secession from the Yugoslav Federation - is the owner of the assets of the Socialist Federal Republic of Yugoslavia in the territories that seceded from the former federation". These assertions have neither legal nor factual foundation, are totally inconsistent with the findings of the European Union-mandated Badinter Commission, and contravene relevant Security Council and General Assembly resolutions.

As the Belgrade authorities persist in their groundless assertion that they are the sole and automatic successor State of the SFRY and the privileges associated with it, we must once again recall Security Council resolution 777 (1992) of 19 September 1992, stating that "the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist" and that "the

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Security Council

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S/1995/148
21 February 1995

ORIGINAL: ENGLISH

Draft resolution

The Security Council,

Recalling its resolution 955 (1994) of 8 November 1994,

Having regard to its decision contained in paragraph 6 of resolution 955 (1994) that the seat of the International Tribunal for Rwanda shall be determined by the Council,

Having considered the report of the Secretary-General dated 13 February 1995 (S/1995/134) and noting the recommendation of the Secretary-General that, subject to appropriate arrangements between the United Nations and the Government of the United Republic of Tanzania acceptable to the Council, Arusha be determined as the seat of the International Tribunal for Rwanda,

Noting the willingness of the Government of Rwanda to cooperate with the Tribunal,

Decides that, subject to the conclusion of appropriate arrangements between the United Nations and the Government of the United Republic of Tanzania, the International Tribunal for Rwanda shall have its seat at Arusha.

95-05054 (E) 220295 230295